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LOUISE RAFKIN

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LOUISE RAFKIN, an individual,)	Case No.
Plaintiff)	COMPLAINT FOR COPYRIGHT
vs.)	INFRINGEMENT; DEMAND FOR
)	JURY TRIAL
MILLS COLLEGE, a California)	
corporation,)	
Defendant.)	
_____)	

Plaintiff, LOUISE RAFKIN, by her attorneys Rohde & Victoroff, alleges as follows:

PARTIES

1. LOUISE RAFKIN ("RAFKIN" or "Plaintiff") is an author, writer, and lecturer residing and doing business in Emeryville, California.

2. Plaintiff is informed and believes and thereon alleges that Defendant MILLS COLLEGE ("MILLS" or "Defendant") is a California public benefit corporation doing business in Oakland, California. MILLS offers college level classes, training, education, entertainment, sports and cultural activities, primarily for women.

JURISDICTION AND VENUE

3. This Court has original jurisdiction over the claim for copyright infringement herein under 28 U.S.C. §1338(a), because the action arises under the U.S. Copyright Act of 1976, as amended, 17 U.S.C. §101 et seq.

4. Venue is proper in this district under 28 U.S.C. §§1391(b) and 1400(a) because Defendant MILLS is doing business in this district and the events giving rise to Plaintiff's claims alleged herein occurred in this district.

GENERAL ALLEGATIONS

5. This is an action for copyright infringement. Plaintiff is the author and copyright owner of a book entitled ***Street Smarts: A Personal Safety Guide For Women***, published in 1995 by Harper Collins (hereinafter "***Street Smarts***" or the "Work"). The U.S. copyright in the Work was registered with the U.S. Copyright Office effective August 4, 1995, within 3 months of its first publication on June 23, 1995, Reg. No. TX-4-085-113 (see Exhibit "A" attached).

6. In connection with advertising, promoting and providing its college classes and educational and other services, MILLS created and operates an Internet website: "www.mills.edu" ("Website").

7. Plaintiff is informed and believes and thereon alleges that commencing on a date unknown to Plaintiff, MILLS caused to be created a list of 16 "Personal Safety Tips" which Safety Tips were then reproduced, distributed and displayed by MILLS on a series of web pages on the MILLS' Website (the "Infringing Webpages").

1 8. The text of the Safety Tips on the Infringing Webpages is strikingly
2 similar to portions of the text in Plaintiff's Work, *Street Smarts*, evidencing that
3 substantial portions of the Infringing Webpages were copied from Plaintiff's
4 copyrighted Work, see Exhibits "B" and "C" attached, incorporated by reference.

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6 9. MILLS' direct or indirect involvement in the creation, reproduction,
7 distribution, and display of the Infringing Webpages violates Plaintiff's exclusive
8 copyright rights under 17 U.S.C. §§106(1), (2), and (3), and constitutes copyright
9 infringement under 17 U.S.C. §501.

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11 **CLAIM ONE**

12 **Copyright Infringement**

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14 10. Plaintiff realleges and incorporates herein by reference all of the
15 allegations of paragraphs 1-9 inclusive.

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17 11. At no time did MILLS have any license, permission, or authority
18 from Plaintiff to create, display or distribute a derivative work based on "*Street*
19 *Smarts.*"

20
21 12. MILLS' Infringing Webpages copy *verbatim* substantial portions of
22 "*Street Smarts,*" slightly modify other portions, and constitute an infringing
23 derivative work of "*Street Smarts.*"

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25 13. By reason of the foregoing MILLS has infringed Plaintiff's copyright
26 in violation of 17 U.S.C. §501.

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14. Plaintiff is informed and believes that MILLS infringement of Plaintiff's copyright has been deliberate and willful.

15. MILLS' conduct alleged herein has caused Plaintiff irreparable harm to her business and has also caused damages in an amount to be proven at trial.

WHEREFORE, Plaintiff demands judgment as follows:

1. That MILLS and its directors, officers, faculty, staff, agents, servants, employees, subsidiaries, affiliates, parents, partners, insurers, and attorneys, and all persons in active concert or participation with them, be enjoined and restrained permanently from infringing the copyright in the text of "*Street Smarts*" by creating and distributing any version of that work, including on MILLS' Website, or otherwise and from printing, publishing, advertising, promoting, selling, offering for sale, marketing, distributing, importing, or otherwise disposing of any copies of the 16 "Personal Safety Tips" or the Infringing Webpages, and from participating in, or assisting such conduct in any way.

2. That MILLS and its directors, officers, faculty, staff, agents, servants, employees, subsidiaries, affiliates, parents, partners, and attorneys, and all persons in active concert or participation with them, be enjoined and restrained permanently from importing and distributing copies of the Infringing Webpages or from publishing or stating directly, or implying indirectly that MILLS and not RAFKIN is the originator and owner of the text, or the copyright in "*Street Smarts*" or the Infringing Webpages, and from printing, publishing, advertising, promoting, selling, offering for sale, marketing, distributing, importing, or otherwise disposing of copies of any such Infringing Webpages, and from participating in, or assisting such conduct in any way.

1 3. That MILLS be required to deliver upon oath, for impounding,
2 destruction, deletion, or other disposition, as RAFKIN determines, all copies of
3 the Infringing Webpages, printed or electronic, on paper, disc, hard drive, or
4 otherwise, wherever located, in any form.

5
6 4. That MILLS be required to pay RAFKIN such damages as she
7 sustained in consequence of MILLS' infringement of Plaintiff's copyright in
8 "*Street Smarts*" through the publication of the Infringing Webpages, and to
9 account for and pay RAFKIN all of MILLS' profits attributable to that
10 infringement or, alternatively, as RAFKIN may elect, that RAFKIN be awarded
11 such statutory damages as the fact-finder may award because of MILLS' willful
12 infringement of Plaintiff's Work.

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14 5. That MILLS pay to RAFKIN the full costs of this action, including
15 all of RAFKIN's actual attorneys' and experts' fees relating to the copyright
16 claim.

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18 6. That RAFKIN have such other and further relief as the Court deems
19 just.

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21 Dated: August 22, 2003

Respectfully submitted,
ROHDE & VICTOROFF

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24 By: GREG VICTOROFF, ESQ.
Attorneys for Plaintiff,
LOUISE RAFKIN

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JURY DEMAND

Plaintiff hereby demands a trial by jury.

ROHDE & VICTOROFF

Dated: August 22, 2003

By: GREG VICTOROFF, ESQ.
Attorneys for Plaintiff,
LOUISE RAFKIN